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COLUMBIA, SOUTH CAROLINA

July 27, 2007

**VIA ELECTRONIC FILING**  
**HAND DELIVERED ORIGINAL**

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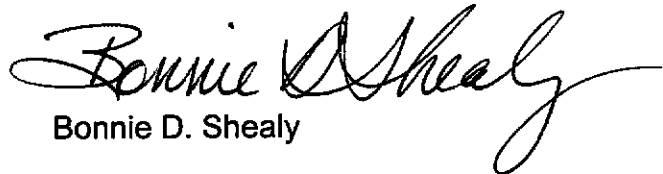
**Re: Universal Service Fund Docket – 2007 Issues  
Docket No. 1997-239-C**

Dear Mr. Terrini:

Pursuant to the Commission's order number 2007-422 enclosed for filing please find the Comments of the South Carolina Cable Television Association, CompSouth, Time Warner Telecom of South Carolina, LLC and NuVox Communications, Inc. By copy of this letter we are serving the same on all parties of record. Please stamp the extra copy provided as proof of filing and return it with our courier.

Yours truly,

ROBINSON, MCFADDEN & MOORE, P.C.

  
Bonnie D. Shealy

/bds  
enclosure

cc/enc: Parties of record  
John J. Pringle, Jr. (via email)  
Ms. Nancy Horne (via email)  
Ms. Carolyn Ridley (via email)  
Ms. Susan Berlin (via email)

***This document is an exact duplicate, with the exception of the form of the signature, of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions***

STATE OF SOUTH CAROLINA

IN RE:

Intrastate Universal Service Fund

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET  
NUMBER: 1997-239-C

(Please type or print)

Submitted by: Bonnie D. Shealy

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

**DOCKETING INFORMATION** (Check all that apply)

☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: \_\_\_\_\_

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certificatio	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigator	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input checked="" type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input checked="" type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA**

**DOCKET NO. 1997-239-C**

IN RE:	)	
	)	
	)	<b>COMMENTS OF SOUTH CAROLINA</b>
	)	<b>CABLE TELEVISION ASSOCIATION,</b>
Proceeding to Establish Guidelines for	)	<b>COMPSOUTH, TIME WARNER</b>
an Intrastate Universal Service Fund	)	<b>TELECOM OF SOUTH CAROLINA, LLC,</b>
(USF)	)	<b>AND NUVOX COMMUNICATIONS</b>
	)	<b>INCORPORATED</b>
	)	
	)	
	)	
	)	

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Pursuant to Order No. 2007-422 of the Public Service Commission of South Carolina ("Commission"), the South Carolina Cable Television Association, CompSouth, Time Warner Telecom of South Carolina LLC, and NuVox Communications Incorporated ("Petitioners") submit these comments on the issues contained in the Order.

**1. Proposed Approach to Cost Study Updates**

**A. Rules to Avoid Cross Subsidization**

The amount of "support" which Carriers of Last Resort ("CLR") may obtain from the USF is established in §58-9-280(E)(4). That provision establishes the fund as the "difference, for each carrier of last resort, between its cost of providing basic local service and the maximum amount it may charge for the services." This language requires that the cost studies identify, for purposes of

this formula, those costs of providing basic local services and exclude costs associated with services other than basic local services. This issue is far more significant in 2007 than it was in 1997 because of the proliferation of non-regulated services offered by LECs using the same facilities which the LECs use to provide voice services. For example, in 1997 no LECs were using loops to provide DSL or video services, and the largest ILEC (BellSouth) was not yet able to provide long distance services. In 2007 virtually all LECs are providing DSL services over local loops: many are providing or are planning to provide video services using the same loops with which voice services are or will be provided, while BellSouth (now part of AT&T) is likely to be the largest long distance company in the state

The Commission should establish rules requiring cost studies to be done in a way that ensures that the USF only supports basic local service. If costs are not properly allocated and the USF is allowed to support competitive voice services, broadband services or video services then the incumbents taking money from the USF will be receiving improper subsidies. Subsidization of competitive services in this fashion would be a violation of §254(k) of the Federal Telecom Act:

A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition. The Commission, with respect to the states, and the States, with respect to intrastate services, **shall establish any necessary cost allocation rules**, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

47 USC §254(k)(emphasis supplied).<sup>1</sup>

The FCC has cost allocation rules to prevent subsidization of non-regulated services and affiliates by regulated services. This Commission should consider requiring that all current Carriers of Last Resort perform cost studies in a manner consistent with those regulations. 47 CFR Part 64, Subpart I contains detailed rules for allocation of costs between regulated and nonregulated activities. Such rules are could be adapted to allocating costs between basic local services and all other services. Failure to establish these requirements would be in direct contravention of the FTA and, by reference, §58-9-280(E) which requires this Commission to establish an intrastate USF which operates in a manner consistent with the federal universal service fund.

#### **B. Bundles Should Not be Supported.**

In South Carolina bundled and contract offerings, defined in §58-9-285(A), are not regulated. These offerings can, and almost always do, include voice service. Any voice line which is provided as a part of a bundle or a contract is unregulated – there is no Commission-approved, tariffed, maximum price for that line. As an unregulated competitive service, that line should not be supported by the USF. Allowing LECs to continue to include such lines in their requests to draw money from the USF violates state and federal law. This Commission should establish rules to require LECs to exclude bundled and contract lines from

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<sup>1</sup> Failure to establish rules to prohibit cross subsidization would also violate 47 USC §253 which permits the states to establish universal service support mechanisms “in a competitively neutral fashion.” Proper cost allocation is necessary to insure operation of the SC USF in a way that is competitively neutral.

their requests for USF funding.

**2. Changing the Fund to Match the State Fiscal Year**

The Petitioners do not oppose the Office of Regulatory Staff's ("ORS") request to close out the fund fiscal year to match the state's fiscal year.

**3. Considering Whether the Fund Should Be Adjusted Semi-Annually**

ORS suggested that carrier information be submitted in April of each year, commensurate with filing the federal USF 499A report and that it be adjusted in the second half of the year to take into account mis-reported information, late filers, updated Lifeline data, and to true-up for companies no longer certificated. The Petitioners do not object to this request.

**4. Establishing a Time Limitation for Identifying Reporting Errors Regarding Overpayments**

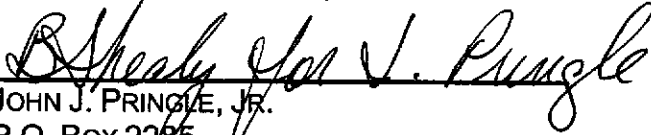
ORS suggests that the Commission limit the time for identifying overpayment errors to two years after the end of the reporting period in question. Currently companies that identify errors are not limited in the time they have to report these errors. If the Commission is going to establish limitation on claims for refunds for overpayments, the Petitioners would request that the same time limit be imposed for adjustments relating to underpayments to the fund.

**5. Charging a Fee for Carriers Filing USF Reports Late**

ORS suggests that late filers be charged a fee for filing USF reports late. The Petitioners do not oppose the imposition of a reasonable late fee.

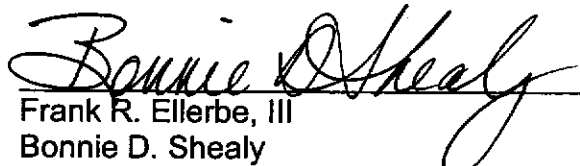
Dated this 27th day of July, 2007

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Dated at Columbia, South Carolina this 27<sup>th</sup> day of July, 2007.

  
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